

REMARKS

The applicants have carefully considered the Office action dated March 4, 2009, and the references it cites. By way of this Response, claim 27 has been amended and claims 50-57 have been added. No new matter has been added. In view of the foregoing claim amendments and the following remarks, it is respectfully submitted that all pending claims are in a condition for allowance. Accordingly, reconsideration of the application and allowance thereof are respectfully requested.

In the Office action, claims 27, 32-34, 36-37, 46 and 48-49 were rejected as anticipated by Kish (US 6,488,464). The applicants respectfully traverse these rejections.

The applicants respectfully submit that independent claim 27 is allowable over the art of record. As amended independent, claim 27 is directed to a method of operating a vehicle brace that includes, *inter alia*, continuously exerting an upward biasing force on the vehicle brace by way of a first actuation system and selectively causing, by way of a second actuation system, the vehicle brace to apply a reactive upward force separate from the upward biasing force and adjacent a vehicle's rear edge to substantially reduce downward movement of the vehicle's rear edge that would result from the applied weight of the material handling equipment in the absence of the reactive upward force.

Kish fails to teach such a method. In particular, a barrier (14) of Kish moves between an operative position and a stored position via an actuator (28). (Col. 3, Lns. 48-50). A biasing element (74) enables the barrier (14) to move to a second operative position (FIG. 5) to allow the barrier (14) to descend when weight is added to the vehicle, while the actuator (28) is locked in position (i.e., neither extends nor retracts). (Cols. 5, Lns. 66-67 and Col. 6, Lns.1-5). However, although Kish includes a biasing element (74),

the biasing element (74) of Kish does not continuously exert an upward biasing force on the vehicle brace that exceeds the weight of the vehicle brace such that the vehicle brace is continuously biasing the vehicle brace toward the raised position as recited in claim 27. Therefore, Kish neither anticipates, nor renders obvious, claim 27. Accordingly, claim 27 and all claims dependent therefrom are in condition for allowance.

Also, new independent claim 50 and all the claims that depend therefrom are patentable over Kish and the art of record. Claim 50 is directed to a method to operate a vehicle brace that includes, *inter alia*, biasing a vehicle brace to a raised position by continuously exerting on the brace an upward biasing force and selectively causing the vehicle brace to apply a reactive upward force to reduce downward movement of the vehicle's rear edge that would result from the applied weight of the material handling equipment in the absence of the reactive upward force. Kish fails to teach or suggest such a method. Thus, Kish neither anticipates, nor renders obvious, claim 50 or all claims that depend therefrom. Accordingly, claim 50 and depending therefrom are allowable over Kish and the art of record.

CONCLUSION

In general, the Office Action makes various statements regarding the claims and the cited references that are now moot in light of the above. Thus, the applicants will not address such statements at the present time. However, the applicants expressly reserve the right to challenge such statements in the future should the need arise (*e.g.*, if such statements should become relevant by appearing in a rejection of any current or future claim).

In view of the foregoing amendments and remarks, it is respectfully submitted that the pending claims are in condition for allowance. If the Examiner is of the opinion that a further telephonic conference would expedite the prosecution of this application, the Examiner is urged to contact the undersigned attorney at the number below.

The Commissioner is hereby authorized to charge any deficiency in the amount enclosed or any additional fees which may be required during the pendency of this application to Deposit Account No. 50-2455.

Respectfully submitted,

HANLEY, FLIGHT & ZIMMERMAN, LLC
150 South Wacker Drive
Suite 2100
Chicago, Illinois 60606
(312) 580-1020

By: /Sergio D. Filice/
Sergio D. Filice
Registration No. 59,727
Attorney for Applicants

Dated: September 4, 2009